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9 Attorneys for Plaintiff ELIZABETH COY
10 individually and on behalf of Aggrieved Employees

11 **UNITED STATES DISTRICT COURT**

12 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

13 ELIZABETH COY, on behalf of herself and
14 Aggrieved Employees

15 Plaintiff,

16 vs.

17 SOUTHERN HOME CARE SERVICES,
18 INC., a Delaware Corporation; RES-CARE
CALIFORNIA, INC. (DBA RCCA
19 SERVICES), a Delaware Corporation; RES-
20 CARE, INC. (DBA ALL WAYS CARING
HOMECARE), a Kentucky Corporation;
21 RSCR CALIFORNIA, INC., a Delaware
Corporation; CRISTINA KOVAL, an
22 individual; ELIZABETH FLOREZ, an
individual, and DOES 1 to 100, inclusive,

23 Defendants.
24
25

Case No. 2:21-CV-00067-JAM-CKD

Hon. Judge John A. Mendez

**JOINT STIPULATION TO VACATE THE
FRCP, RULE 26 (F) DEADLINES SET
FOURTH IN THIS COURT'S ORDER RE
SERVICE OF PROCESS AND JOINT
STATUS REPORT PENDING THIS
COURT'S ORDER ON PLAINTIFF'S
MOTION TO REMAND; ORDER**

Filed: 11/25/2020

Removed: 01/13/2021

Trial Date: Not Set

26 TO THE HONORABLE COURT, ALL PARTIES AND TO THEIR COUNSEL OF
27 RECORD:

28 //

1 Plaintiff ELIZABETH COY (“Plaintiff”) and Defendants SOUTHERN HOME CARE
2 SERVICES, INC.; RES-CARE CALIFORNIA, INC. (SBA RCCA SERVICES); RES-CARE,
3 INC. (DBA ALL WAYS CARING HOMECARE); and RSCR CALIFORNIA, INC.,
4 (“Defendants”) (collectively referred to as the “Parties”) hereby submit this joint stipulation to
5 vacate the FRCP, Rule 26(f) conference and joint status report deadlines set forth in this Court’s
6 Order Requiring Service of Process and Joint Status Report pending an Order on Plaintiff’s
7 Motion to Remand and state as follows:

8 **STIPULATION**

9 1. WHEREAS, Defendants removed this individual wage and hour and PAGA
10 action from Sacramento County Superior Court on January 1, 2013. (Docket Entry (“D.E.”) 1);

11 2. WHEREAS, the Court issued an Order Requiring Service of Process and Joint
12 Status Report on January 13, 2021. (D.E. 2);

13 3. WHEREAS, Defendants filed a Motion to Dismiss Plaintiff’s Complaint on
14 January 20, 2021; (D.E. 3);

15 4. WHEREAS, Plaintiff filed a Motion to Remand this action back to state court on
16 February 8, 2021. (D.E. 4);

17 5. WHEREAS, the Motion to Remand was fully briefed on March 2, 2021 (D.E.
18 8);

19 6. WHEREAS, on February 22, 2021, the Parties agreed that, given the pending
20 Motion to Remand and considering judicial and party efficiency, it was best to request that the
21 deadlines in the Court’s Order Requiring Service of Process and Joint Status Report regarding
22 the FRCP, Rule 26(f) conference and joint status report be vacated, pending the outcome of
23 Plaintiff’s Motion to Remand to determine the threshold issue of removal, and the related issues
24 raised by Defendants’ Motion to Dismiss. *See, e.g., Kokkonen v. Guardian Life Ins. Co.*, 511
25 U.S. 375, 377 (1994); *Marley v. United States*, 567 F.3d 1030, 1032 (9th Cir. 2009) (“A federal
26 court generally may not rule on the merits of a case without first determining that it has
27 jurisdiction”); *Sinochem Int’l Co. v. Malay. Int’l Shipping Corp.*, 549 U.S. 422, 430-431 (2007)
28 (“Without jurisdiction the court cannot proceed at all in any cause; it may not assume

1 jurisdiction for the purpose of deciding the merits of the case”);

2 7. WHEREAS, the Parties further agree that postponing the Rule 26 (f) deadlines
3 until Plaintiff’s challenge to jurisdiction has been resolved will facilitate to the mutual goal of
4 the Parties to minimize attorneys’ fees;

5 8. WHEREAS, the Parties agree and propose to confer in accordance with Rule
6 26(f) within 30 days of the Court’s order on Plaintiff’s Motion to Remand, and thereafter within
7 the time specified by Rule 26, make the initial disclosures pursuant to Rule 26(a)(1) and file
8 their report pursuant to Rule 26(f);

9 9. This extension is the first extension sought regarding the requirements of Rule
10 26(f);

11 10. The extension is not sought for any improper purpose or to delay and will not
12 result in prejudice to either party;

13 11. If the Court is not inclined to vacate the deadlines in the Order pending a ruling
14 on the Motion to Remand, the Parties will promptly meet and confer and submit a full Joint
15 Statement of the case;

16 12. NOW THEREFORE, the Parties stipulate to confer in accordance with Rule 26(f)
17 within 30 days of the Court’s order on Plaintiff’s Motion to Remand, and thereafter within the
18 time specified by Rule 26, make the initial disclosures pursuant to Rule 26(a)(1) and file their
19 report pursuant to Rule 26(f).

20 Dated: March 3, 2021

SHIMODA LAW CORP.

21 By: /s/ Jessica L Hart
22 Galen T. Shimoda
23 Justin P. Rodriguez
24 Brittany V. Berzin
Jessica L. Hart
Attorneys for Plaintiff

25 Dated: March 3, 2021

HAWKINS PARNELL & YOUNG LLP

26 By: /s/ Phil. J. Montoya
27 Phil J. Montoya, Jr.
28 Attorney for Defendants

ORDER

The COURT, having considered the above stipulation, HEREBY ORDERS that:

1. The deadlines set forth in this Court's Order Requiring Service of Process and Joint Status Report regarding the FRCP, Rule 26(f) conference and Joint Status Report are vacated pending the Court's Order on the Motion to Remand; and
2. The Parties shall confer in accordance with Rule 26(f) within 30 days of the Court's order on Plaintiff's Motion to Remand, and thereafter within the time specified by Rule 26, make the initial disclosures pursuant to Rule 26(a)(1) and file their report pursuant to Rule 26(f).

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: March 3, 2021

/s/ John A. Mendez

THE HONORABLE JOHN A. MENDEZ
UNITED STATES DISTRICT COURT JUDGE